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3) October 2018

Ms Joy Burch MLA
Speaker
Legislative Assembly for the ACT
GPO Box 1020
CANBERRA ACT 2601



Dear Ms Burch

ACT Ombudsman quarterly update – 1 July to 30 September 2018

I am writing to provide you with an update on the activities of the ACT Ombudsman during the first quarter of the 2018-19 financial year.

These activities are reflective of the wide range of services that my Office now offers the people of the ACT, from more traditional complaint investigation functions, to new functions related to Reportable Conduct and Freedom of Information which have continued to mature during this reporting period.

Complaint trends

Complaints statistics for this first quarter of 2018-19 are provided at **Attachments A and B**.

These indicate that during this period my Office:

- received **137 approaches** that related to ACT agencies and ACT Policing, and
- finalised **147 matters** – with 21% of these matters formally investigated prior to finalisation.

These quarterly statistics are consistent with average approach numbers for the previous three years, and do not reflect a continuation of the downward trend observed in 2017-18 and noted in our recently released annual report¹.

This may be reflective of the increased outreach that my Office has undertaken in the ACT (see below). We are, nevertheless, committed to maintaining these efforts to ensure that there is strong awareness of our services within the ACT community.

The ACT agencies that were the focus of the complaints received are detailed in the table at **Attachment A**. This table indicates that the largest number of complaints were received in relation to Access Canberra and Housing ACT, with 16 approaches each this quarter.

- For Access Canberra, this was more than last year's average of 10 approaches per quarter. Complaints included matters relating to parking infringement notices, vehicle registrations, smoking in public places, street lights and trees.
- For Housing ACT, this was, however, one of the lowest numbers of approaches for this agency in a quarter over the past three years.

¹ See: <http://ombudsman.act.gov.au/publications-and-media/reports/annual-reports/act-ombudsman-annual-report-2017-18>



- The Office finalised a further 14 matters related to Housing ACT this reporting period.
- Five Housing ACT matters are currently open with my Office; two of which are investigations of matters that were received in the first quarter of the year.
- Common complaint issues about Housing ACT include neighbourhood disputes and maintenance issues. We also continue to receive complaints about the allocation of Housing ACT properties.

ACT Policing

During this quarter, my Office received 22 approaches and finalised 26 matters in relation to ACT Policing. People approached my Office in relation to complaints about harassment, excessive use of force, family law issues, and loss of property while in custody.

There are currently seven open ACT Policing matters, five of which are being investigated.

ACT community outreach activities

My Office continues to seek opportunities to engage the general ACT community about our role and provide assistance in relation to empowering people to resolve their issues with ACT agencies.

During this quarter, my Office attended a meeting of the ACT Neighbourly Network and a meeting of support services for ACT residents experiencing homelessness or housing vulnerability. We also continued our monthly visits to the Alexander Maconochie Centre (AMC) and made a number of visits to individual detainees to discuss their complaints – receiving complaints about prisoner’s cash accounts, visitors and access to programs

Reflecting the Office’s commitment to increasing awareness around Aboriginal and Torres Strait Islander ACT residents, staff also:

- attended the NAIDOC flag raising ceremony held at the Legislative Assembly and hosted a stall at the NAIDOC week event held at the University of Canberra in July
- attended a viewing of the Australian film *After the Apology*, and
- met with people from the Galunga Program at the ACT Council for Social Services in August and September.

Agency engagement

This quarter I attended the ACT Government Strategy Board to brief the Directors General of all Directorates on ACT Ombudsman related matters. My Office also had liaison meetings with Housing ACT and Transport Canberra, and continued to engage with other oversight agencies with roles at AMC via regular liaison meetings.

Reportable Conduct

In the quarter, my Office received 54 reports from entities about allegations of reportable conduct and we have closed 45 matters during the period. Ill-treatment of a child involving hostile use of force remains the most common allegation type, with misconduct of a sexual nature and ill-treatment emotional abuse being the next most common allegation categories.

We continue to work closely with designated entities to ensure awareness of the scheme and help build capacity to prevent, report and respond to allegations of reportable conduct. My Office held two information sessions this quarter for approximately 60 representatives of designated entities, including religious organisations, ACT Government Directorates, out of home care, schools and child care services. These sessions are a useful way for us to connect with staff and organisations learning about reportable conduct for the first time. We have been delivering these sessions regularly now for 18 months and plan to continue to do so, given demand remains strong.

We also engage with significant entities through regular bilateral meetings and our Reportable Conduct Practitioner Forum, which met more recently in September. This forum included presentations from the Catholic Education Office and the ACT Professional Standard Unit and has a focus on sharing practices, challenges and new developments. Our Office takes a similar approach by exchanging resources and experiences with bodies with a similar role to ours in NSW and Victoria.

In this quarter, we completed our first survey of designated entities that were part of the scheme as at 30 June 2018. We received responses for 311 organisations, which is approximately 58 per cent of entities. The results indicated that – in the first year of the scheme – responding organisations have taken a range of approaches to implementing the reportable conduct scheme, and are looking for ways to improve their policies, practices and staff awareness and education. The information provided will be used to inform our function of monitoring policies and practices of organisations under the scheme (section 17F *Ombudsman Act 1989* (the Act)) and establish a baseline for future surveys.

I have also finalised my investigation of the Education Directorate’s handling of an allegation of reportable conduct under section 17K of the Act. A final report has been provided to the Directorate. I made a public statement about the investigation on 17 October 2018, as I consider that many of the issues identified in the investigation will be of interest to other entities covered by the scheme. I re-iterate the positive response of the Directorate to these matters, and its assistance and cooperation during this investigation, and I look forward to working with the Directorate on its implementation of my recommendations.

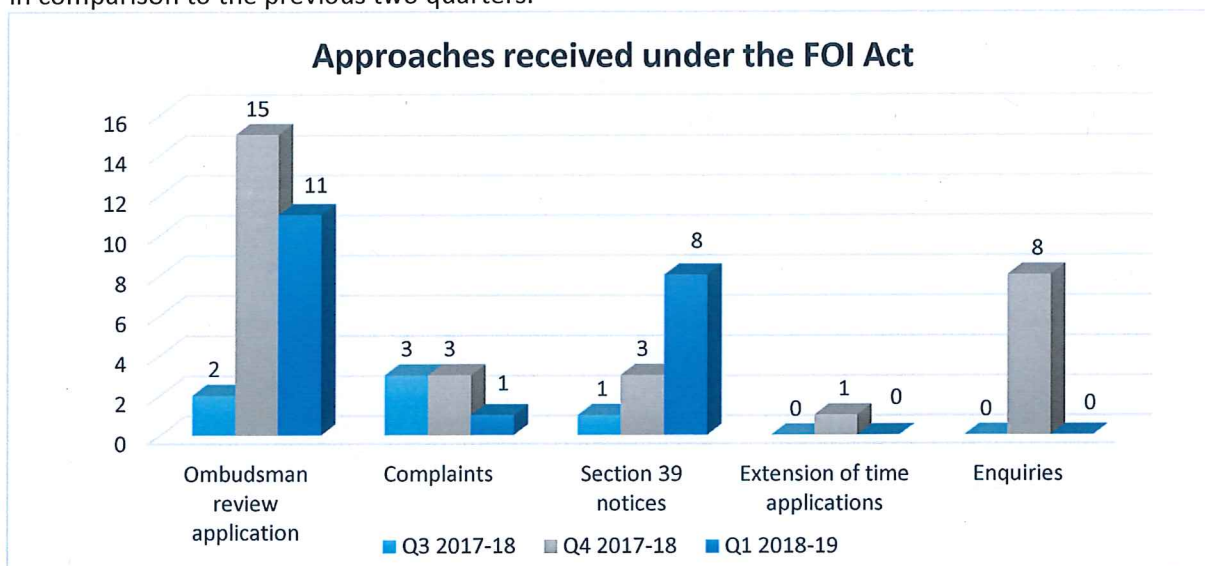
My Office was pleased to connect with the wider ACT community about child protection issues this quarter. For National Child Protection Week, my Office partnered with the National Association for Prevention of Child abuse and Neglect (NAPCAN) and the ACT Children and Young People Commissioner to host the 2018 ‘Play Your Part’ Awards. The Awards were attended by approximately 50 ACT community stakeholders and celebrated people in our community doing inspiring work to build stronger communities and support children and families.

Freedom of Information

In the last quarter, my Office received 20 approaches relating to our role under the *Freedom of Information Act 2016* (the FOI Act), as follows:

- 11 applications for Ombudsman review;
- one FOI complaint from a member of the public; and
- eight notices under section 39 of agencies not having met the statutory processing timeframe.

The graph below provides a comparison of the rate of activity for this quarter in the ACT FOI space in comparison to the previous two quarters.



During this reporting period, my Office received an increased number of section 39 notices from ACT agencies regarding a decision on an access application that was not made in time. I am aware that the 20 working day statutory timeframe for processing applications is a concern for some agencies and acknowledge that there are circumstances where it may not be practical to meet this timeframe. My Office continues to monitor this issue and particularly in relation to agency practice, is seeking consent from applicants to extend the processing period and/or amend the scope of the access applications.

During this quarter, my Office finalised nine Ombudsman reviews:

- four applications progressed to a formal decision, with the agency's decision confirmed in three cases, and set aside in one case
- in two applications my Office set aside a deemed decision and extended the time for the agency to decide the access application
- two applications were withdrawn, and
- one application was closed where insufficient information was provided for a review to be conducted.

Formal decisions made by the Office are available and published on the ACT Ombudsman's website at: <http://ombudsman.act.gov.au/Freedom-of-Information>.

My Office has continued to engage with ACT Government agencies through initiatives such as International Right to Know Day on 28 September 2018, an event to celebrate the importance of the public's right to access government held information. The FOI co-ordinators of the Directorates were invited to view a livestream of the annual Solomon Lecture. We also provided them with an email graphic to help promote this event.

My Office attended the September meeting of the Association of Information Access Commissioners (AIAC), where Commissioners and Ombudsmen from across Australia and New Zealand shared their experiences of current information access issues and developments. Topics such as optimal features for information access legislative rights and the Open Government Partnership were discussed.

Further information

You are welcome to contact me directly on (02) 6276 0149 if you have any questions. Alternatively, your office may wish to contact the Senior Assistant Ombudsman responsible, Mr Paul Pfitzner on (02) 6276 3769.

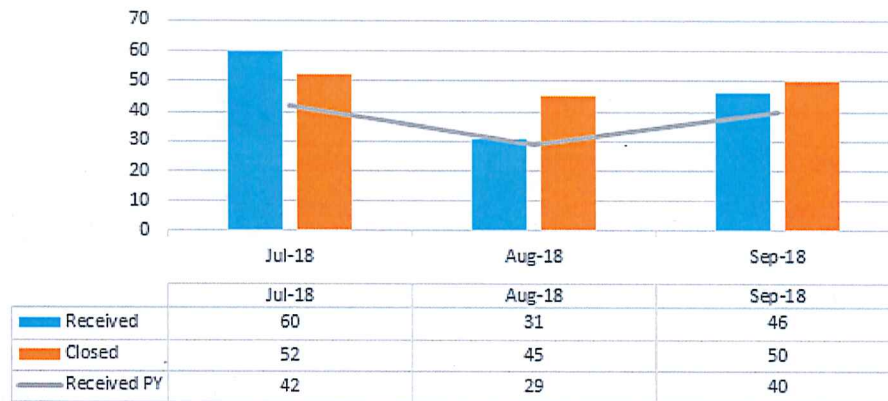
Yours sincerely



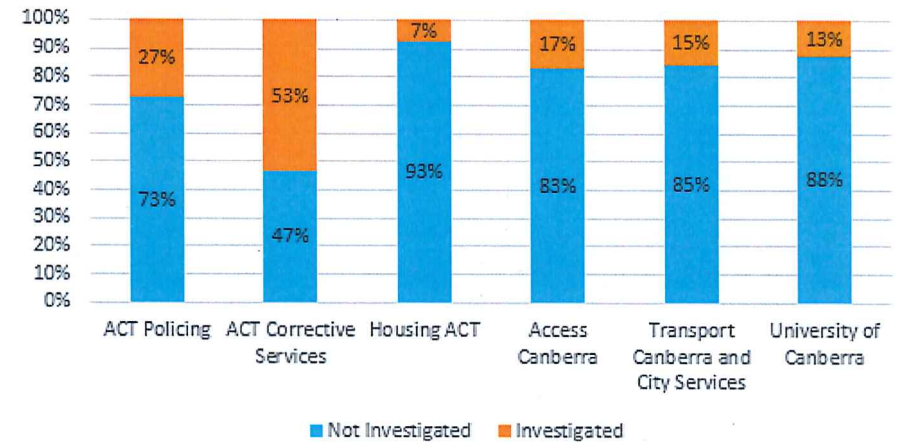
Michael Manthorpe PSM
ACT Ombudsman

ACT Ombudsman report for the period 01/07/2018 to 30/09/2018 – Financial year to date

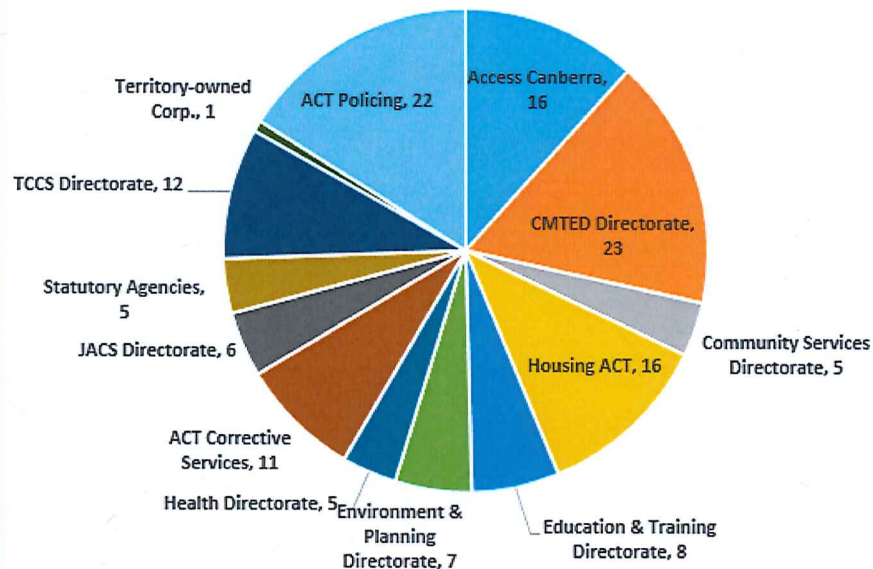
Approaches by month



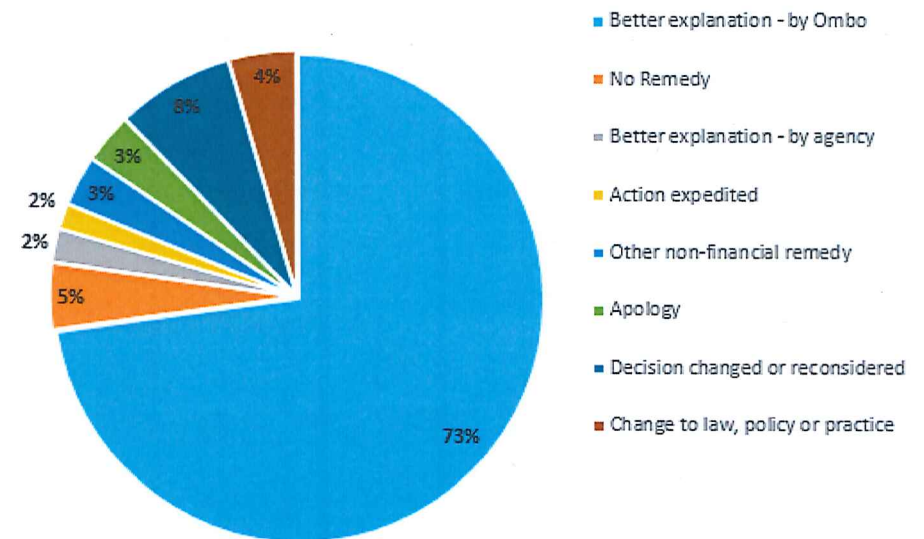
Investigation rate



Approaches by agency



Remedies - Investigated Approaches



- JACS total does not include ACTCS or Statutory Agencies
- Community Services Directorate does not include Housing ACT
- Received Previous Year (PY)



ACT Ombudsman Complaint Statistics – Q1 – 1/7/2018 to 30/9/2018

Directorate /Agency	Total Received	Total Finalised	Finalised without investigation	Finalised with investigation	Investigation resulted in 'no remedy'	Remedies resulting from investigation ¹	Action expedited	Apology	Change to law, policy or practice	Decision changed or reconsidered	Better Explanation (Ombudsman)	Better Explanation (Agency)	Other non-financial remedy	Agency office counselled/ disciplined	Remedy provided by agency
Chief Minister, Treasury and Economic Development Directorate	39	37	31	6	0	11	2	1	0	0	7	0	0	1	0
Access Canberra	16	18	15	3	-	5	-	1	-	-	3	-	-	1	-
Chief Minister, Treasury and Economic Development	3	3	2	1	-	4	2	-	-	-	2	-	-	-	-
ACT Revenue Office	9	8	7	1	-	1	-	-	-	-	1	-	-	-	-
University of Canberra	11	8	7	1	-	1	-	-	-	-	1	-	-	-	-
Community Services Directorate	21	22	19	3	0	9	0	2	4	0	1	2	0	0	0
Community Services Directorate	5	8	6	2	-	7	-	2	2	-	1	2	-	-	-
Housing ACT	16	14	13	1	-	2	-	-	2	-	-	-	-	-	-
Education and Training Directorate	8	6	6	0	0	1	0	0	0	0	1	0	0	0	0
Canberra Institute of Technology	4	4	4	0	-	1	-	-	-	-	1	-	-	-	-
Education and Training	4	2	2	0	-	0	-	-	-	-	-	-	-	-	-
Environment and Planning Directorate	7	7	7	0	0	0	0	0	0	0	0	0	0	0	0
Health Directorate	5	7	4	3	0	3	0	0	0	0	2	0	1	0	0
Justice and Community Safety Directorate	22	28	19	9	1	8	0	0	0	0	7	0	0	0	1
ACT Corrective Services	11	15	7	8	1	7	-	-	-	-	6	-	-	-	1
ACT Court or Tribunal	0	0	0	0	-	0	-	-	-	-	-	-	-	-	-
ACT Human Rights Commission	0	0	0	0	-	0	-	-	-	-	-	-	-	-	-
Justice and Community Safety	4	5	5	0	-	0	-	-	-	-	-	-	-	-	-
Legal Aid ACT	2	3	2	1	-	1	-	-	-	-	1	-	-	-	-
ACT Law Society	0	0	0	0	-	0	-	-	-	-	-	-	-	-	-
Public Advocate for the ACT	1	1	1	0	-	0	-	-	-	-	-	-	-	-	-
Public Trustee for the ACT	4	4	4	0	-	0	-	-	-	-	-	-	-	-	-
Transport Canberra and City Services Directorate	12	14	11	3	0	3	0	0	0	1	2	0	0	0	0
ACTION Bus	1	1	0	1	-	0	-	-	-	1	-	-	-	-	-
Transport Canberra and City Services	11	13	11	2	-	2	-	-	-	-	2	-	-	-	-
Territory-owned Corporation	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ACT Long Service Leave Authority	1	0	0	0	-	0	-	-	-	-	-	-	-	-	-
Total ACT Government	115	121	97	24	1	35	2	3	4	0	20	2	1	1	1
ACT Policing	22	26	19	7	0	9	0	1	0	2	5	1	0	0	0
Total ACT	137	147	116	31	1	44	2	4	4	2	25	3	1	1	1

¹ There may be more than one remedy arising from a finalised investigation.